



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2015-0111]

Parts and Accessories Necessary for Safe Operation; Exemption Renewal for Ford Motor Company

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of provisional renewal of exemption; request for comments.

SUMMARY: FMCSA announces its decision to provisionally renew the Ford Motor Company's (Ford) exemption which allows motor carriers to operate commercial motor vehicles (CMV) based on the Ford Transit model that do not meet the exhaust system location requirements in the Federal Motor Carrier Safety Regulations (FMCSRs). The exemption is renewed for 5 years.

DATES: This renewed exemption is effective August 16, 2022, through August 16, 2027, unless rescinded earlier. Comments must be received on or before [Insert 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2015-0111 using any of the following methods:

- **Federal eRulemaking Portal:** www.regulations.gov. See the ***Public Participation and Request for Comments*** section below for further information.
- **Mail:** Docket Operations, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- **Hand Delivery or Courier:** West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

- **Fax:** (202) 493-2251.

Each submission must include the Agency name and the docket number for this notice (FMCSA-2015-0111). Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment.

Please see the **Privacy** heading below.

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

Privacy Act: In accordance with 49 U.S.C. 31315(b), DOT solicits comments from the public to better inform its exemption process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov. As described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy, the comments are searchable by the name of the submitter.

FOR FURTHER INFORMATION CONTACT: Mr. Luke Loy, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001; (202) 366-0676; MCPSV@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2015-0111), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to www.regulations.gov and put the docket number, “FMCSA-2015-0111” in the “Keyword” box, and click “Search.” When the new screen appears, click on the “Comment” button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b)(2) and 49 CFR 381.300(b) to renew an exemption from the FMCSRs for a 5-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.”

III. Background

Current Regulation(s) Requirements

Under 49 CFR 393.83, (1) the exhaust system of a bus powered by a gasoline engine must discharge to the atmosphere at or within 6 inches forward of the rearmost

part of the bus, and (2) the exhaust system of every truck and truck tractor must discharge to the atmosphere at a location to the rear of the cab or, if the exhaust projects above the cab, at a location near the rear of the cab. These requirements ensure that exhaust fumes will not affect the driver's alertness or health or the health of passengers.

Application for Renewal of Exemption

Ford has requested a 5-year renewal of its exemption from 49 CFR 393.83, *Exhaust systems*, previously granted on August 12, 2015,¹ and renewed on August 15, 2017² for Ford-manufactured CMVs based on the Ford Transit model. Ford requested the exemption to allow motor carriers to continue to operate Transit-based CMVs, stating that the vehicle design and performance of the Transit emissions system achieves a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with 49 CFR 393.83. The exemption covers gas-powered Transit-based CMVs with gross vehicle weight ratings (GVWR) over 10,000 lb.

Original Application for Exemption and Operations under Exemption

In its original application, Ford stated that although the Transit CMV did not meet these Agency's exhaust requirements, it conducted performance-based testing which demonstrated that the exhaust system achieved a level of safety equivalent to or greater than, the level of safety that would be obtained by complying with the existing regulation. Ford used monitors to measure the concentration of CO from the power train and exhaust system at locations in the vehicle's passenger compartment under various driving conditions, including idle and top speed. The tests showed that CO concentration levels were below every safety threshold used by Federal Agencies as an allowable performance metric.

¹ See 80 FR 48408.

² See 82 FR 53556.

Ford applied for an exemption from 49 CFR 393.83 on December 1, 2014, to allow motor carriers to operate Transit-based CMVs that do not comply with the exhaust system location requirements. Based on Ford's application, FMCSA granted a two year exemption on August 12, 2015 (80 FR 48408), and subsequently renewed that exemption from August 15, 2017 to August 15, 2022 (82 FR 53556).

IV. Equivalent Level of Safety Analysis

FMCSA is not aware of any evidence showing that model year 2015 and later Ford Transit-based gas-powered CMVs equipped with exhaust systems allowed by the previous exemption have resulted in any degradation of safety. Ford conducted performance-based testing demonstrating that the design of the exhaust system for the model year 2015 and later Ford Transit CMVs (1) resulted in CO exposure limits well below thresholds established by the Environmental Protection Agency (EPA), Occupational Safety and Health Administration (OSHA), and National Institute of Occupational Safety and Health (NIOSH), and (2) maintained a level of safety that is equivalent to the level of safety achieved without the exemption.

Ford noted in its renewal application that the exhaust systems for the Transit-based CMVs were modified starting with the model year 2020 vehicles, but that neither the model year 2015-2019 design nor the model year 2020 and later design met the requirements of section 393.83. Ford stated that while its Transit-based CMVs may not satisfy the specific exhaust system location requirements of section 393.83, its internal requirements applicable to the design of the tailpipe system ensure the system will provide an equivalent level of safety for its customers. According to the original application:

Ford's requirements address passenger compartment exhaust gas intrusion and management of high temperature components. These requirements include testing of the system and basic design requirements for the location of the tailpipe in relation to underbody components like the brake lines and fuel lines.

Most significantly Ford uses internal performance-based tests that demonstrate the system achieves a level of safety equivalent to or greater than, the level of safety that would be obtained by complying with the regulation. The main test of interest is the Carbon Monoxide Concentration test. This performance-based test uses CO monitors at various locations in the vehicle to measure the concentration of CO ingress into the occupant compartment (from vehicles' own powertrain and exhaust system) under various driving conditions including idle and top speed.

In its renewal application, Ford outlined its internal CO cabin concentration requirements, and how those requirements meet or exceed existing CO exposure limits set by EPA, OSHA, and NIOSH. Ford further stated that modifications to the exhaust design to make it compliant with section 393.83 would result in encroachment of required clearances for vehicle departure angles. Failure to comply with the departure angles may result in damage to the exhaust systems from ground contact during normal usage and may adversely affect the function of the exhaust system.

The Agency believes that extending the exemption for a period of five years will likely achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption because Ford's performance-based testing demonstrated that the design of the exhaust system for the model year 2015 and later Transit CMVs (1) results in CO exposure limits that are well below EPA, OSHA, and NIOSH established thresholds, and (2) will maintain a level of safety that is equivalent to the level of safety achieved without the exemption.

V. Exemption Decision

FMCSA is provisionally renewing the exemption for a period of five years subject to the terms and conditions of this decision and the absence of public comments that would cause the Agency to terminate the exemption under Sec. V.D below. The exemption from the requirements of 49 CFR 393.83, is otherwise effective from August 16, 2022, through August 16, 2027, 11:59 p.m. EST unless rescinded.

A. Applicability of Exemption

The exemption is restricted to motor carriers operating model year 2015 and later Ford-manufactured Transit-based CMVs with GVWRs of 10,000 lb. or greater that do not meet the exhaust system location requirements in the 49 CFR 393.83.

B. Terms and Conditions

Drivers operating under the exemption must comply with all other applicable Federal Motor Carrier Safety Regulations (49 CFR 350-399).

C. Preemption

In accordance with 49 U.S.C. 31313(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

D. Termination

The exemption will be valid for five years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) motor carriers and/or commercial motor vehicles fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objects of 49 U.S.C. 31136(e) and 31315.

Interested parties possessing information that would demonstrate that companies operating under this exemption are not achieving the requisite statutory level of safety should immediately notify FMCSA. Such information may be reported via email to MCPSV@dot.gov. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

VI. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on Ford's application for renewal of its exemption from the requirement in 49 CFR 393.83 relating to the exhaust system location requirements for model year 2015 and later Ford-manufactured Transit-based CMVs. The exemption renewal is for 5 years.

All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the Addresses section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Robin Hutcheson,
Deputy Administrator.

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